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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,682	01/16/2002	Terry Harmston	20136	5686

7590 10/23/2002
JAMES R. CWAYNA
8905 Wood Cliff Rd.
Bloomington, MN 55438

EXAMINER

CHIN SHUE, ALVIN C

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/046,682

Applicant(s)

HARMSTON, TERRY

Examiner

Alvin C. Chin-Shue

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following phrases lack antecedent basis; "the sides of the step and platform", as set forth in claim 9; "the second end of the step", as set forth in claim 10. the phrase "the sides thereof", as set forth in claim 9, is unclear as it is not known which side is being referred to. Claims 12 and 13, are improper as they do not further limit and positively claimed element. In claim 14, the claimed length relative to the ladder, where the ladder is not a positively claimed element, renders the claim indefinite.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9,10, and 12-15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hornung. Hornung shows a first transverse member 54 and a second transverse member 50.

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Claims 9,10, and 12-15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lunn. Lunn shows side members 43, a first transverse member 41 and a second transverse member 53.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9,10,14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in view of Cinker. Evans shows a first transverse member 12, a second transverse member 13, and locking means 19. The claimed difference being the outwardly extension of the transverse members to enable the longitudinally extending members to be located between the upright rails. Cinker shows transverse members 28, 30 extending outwardly of a longitudinal support and beyond the widths of a pair of upright rails to enable a wedged attachment of the longitudinal support there between. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Evans for his longitudinal members to be positioned inwardly of the ends of his transverse members to enable same to be supported within his upright rails.

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Claims 9,10, and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hornung in view of Cinker. Hornung shows the claimed platform with the exception of extent and spacing of his first transverse member 52. Cinker shows a first transverse member 30 spaced beyond a depth of a pair of upright rails from a second transverse member 28 and extending beyond the widths of the pair of uprights rails to abut opposite faces of the upright rails to enable a wedged attachment of the longitudinal support. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the first transverse member 52 of Hornung to spaced beyond the depth of his upright rails 14,16, and to extend beyond the faces of his rails 14, in lieu of his transverse abutment brace 32,34,54, to enable a wedged attachment of his platform to his rails.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hornung, or Hornung and Cinker as applied to claim 9 above, and further in view of Peters. Peters shows a spring-biased rod 38. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a spring-biased rod to Hornung for locking his platform to a rung of his ladder.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

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See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 703-308-2475. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone numbers for the organization where this application or proceeding is

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assigned are 703-305-3597 for regular communications and 703-305-3597 for

After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-

3008-1113.



Alvin C. Chin-Shue
Primary Examiner
Art Unit 3634

ACS

October 20, 2002